

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)	
)	
JUSTIN ALBERT BROOKS,)	CASE NO. 07-20323 JPK
)	Chapter 7
Debtor.)	
*****)	
MARSHALL P. WHALLEY,)	
)	
Plaintiff,)	
)	
v.)	ADVERSARY NO. 07-2062
)	
JUSTIN ALBERT BROOKS,)	
)	
Defendant.)	

ORDER REGARDING MOTION TO COMPEL DISCOVERY

On March 3, 2008, a document entitled "Motion to Compel Discovery" was filed in this case by Marshall P. Whalley, who is both the plaintiff in this case and technically counsel on his own behalf. However, also on March 3, 2008, Attorney Lori Fisher entered her appearance as counsel for the plaintiff.

This case presents a relatively rare situation, in which a party to litigation is an attorney who has previously pursued litigation *pro se*; who has subsequently appeared through an attorney (even though an employee of plaintiff); and who now has engaged the services of an independent attorney to represent him. This circumstance is fraught with many different issues when the plaintiff, although represented now by an independent counsel, is allowed to proceed as a co-counsel. In the Court's view, this circumstance is most analogous to a situation in which a party in an adversary proceeding was originally proceeding *pro se* without the assistance of counsel, and then hires an attorney who appears in the case on his/her behalf. In that circumstance, the party is not allowed to independently file anything with the Court; all matters to be presented to the Court must be presented by his/her attorney of record. Thus, a

party must select either to completely represent himself/herself, or to be completely represented by counsel, "hybrid" representation by both the party personally and by counsel is not allowed; *Brasier v. Jeary*, 256 F.2d 474, 476-78 (7th Cir. 1958); *United States v. Gaines*, 416 F.Supp.1047, 1050-51 (N.D.Ind.1976). Attorney Lori Fisher is now counsel for the plaintiff Marshall P. Whalley in this case, and the filing of the "Motion to Compel Discovery" is a nullity unless re-filed by Attorney Fisher as the attorney of record for the plaintiff in this case.

IT IS ORDERED that any relief requested by the Motion to Compel Discovery is denied, without prejudice to presenting issues addressed by that document to the Court by an appropriate document signed by Attorney Lori Fisher.

Dated at Hammond, Indiana on April 25, 2008.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Attorneys of Record